

REMARKS

1. Summary of Office Action

In the Office Action mailed August 25, 2005, the Examiner rejected claims 1, 8-9, 11-12, 15, and 17 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,381,638 (Mahler et al.). The Examiner rejected claims 3-7, 10, 13-14, 16, and 18-22 under 35 U.S.C. §103(a) as being unpatentable over Mahler et al. in view of U.S. Patent No. 6,665,273 (Goguen et al.).

2. Amendments and Pending Claims

Applicant has amended claims 1, 8, 11, and 15-17, has cancelled claims 5, 10, 14, and 19, and has added new claims 24-26. Claims 1, 3-4, 6-9, 11-13, 15-18, 20-22, and 24-26 are presently pending in this application, of which claims 1, 8, 11, and 17 are independent.

3. Common Ownership of Application No. 09/837,106 and U.S. Patent No. 6,381,638

Applicant's application (Application No. 09/837,106) and U.S. Patent No. 6,381,638 (Mahler et al.) were, at the time the invention of Application No. 09/837,106 was made, owned by or subject to an obligation of assignment to 3Com Corporation of Marlborough, MA.

4. Response to Claim Rejections

The Examiner rejected claims 1, 8, 11, and 17 under 35 U.S.C. §102(e) as being anticipated by Mahler et al. and the Examiner rejected claims 3-7, 10, 13-14, 16, and 18-22 under 35 U.S.C. §103(a) as being unpatentable over Mahler et al. in view of Goguen et al.

Since Application No. 09/837,106 and Mahler et al. were, at the time of the invention of Application No. 09/837,106, commonly owned or subject to an obligation of assignment to 3COM Corporation, and since Application No. 09/837,106 was filed after November 29, 1999, Applicant submits that Mahler et al. is disqualified as prior art usable in an obviousness rejection

under 35 U.S.C. §103 against the invention claimed in Application No. 09/837,106. (See e.g., M.P.E.P. §706.02(l)).

In rejecting claims 5, 10, 14, and 18 under 35 U.S.C. §103(a), the Examiner asserted that Mahler et al. fails to teach the destination identifier comprising a multiprotocol label, but that Goguen et al. teaches an MPLS label for a destination identifier. Applicant has amended independent claims 1, 8, 11, and 17 to recite, in one way or another, that a destination identifier comprises a multiprotocol label switching label (MPLS). Since Mahler et al. fails to teach the destination identifier comprising a multiprotocol label, Mahler et al. fails to anticipate amended claims 1, 8, 11, and 17 under 35 U.S.C. §102(e). Moreover, Mahler et al. is disqualified as prior art for rejecting claims 1, 8, 11, and 17 under 35 U.S.C. §103(a).

In rejecting claims 3-7, 10, 13-14, 16, and 18-22 under 35 U.S.C. §103(a), the Examiner asserted that Goguen et al. teaches (i) the MPLS label switched path (LSP), (ii) the LSP established using a RSVP, (iii) the MPLS label that is for a destination identifier, and (iv) the MPLS label created during the step of establishing the routing path. However, with Mahler et al. disqualified as prior art under 35 U.S.C. §103(a), the Examiner cannot sustain his rejection of claims 3-7, 10, 13-14, 16, and 18-22 or a rejection of amended claims 1, 8, 11, and 17 by using a combination of Mahler et al. and Goguen et al.

For at least these reasons, Applicant submits that claims 1, 8, 11, and 17 are allowable over Mahler et al. and Goguen et al. Further, Applicant submits that claims 3-4, 6-7, 9, 12-13, 15-16, 18, 20-22, and 24-26 are allowable for at least the reason that claims 3-4, 6-7, 9, 12-13, 15-16, 18, 20-22, and 24-26 depend from an allowable claim.

5. Conclusion

Applicant respectfully submits that claims 1, 3-4, 6-9, 11-13, 15-18, 20-22, and 24-26 are now in a condition for allowance, and respectfully requests favorable reconsideration and prompt allowance of the claims. If the Examiner would like to discuss this case, the Examiner is encouraged to contact the undersigned at (312) 913-3313.

Respectfully submitted,
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Date: November 22, 2005

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